

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
July 15, 2003 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

James A. Hollar, Board member, presided. No other Board members were present.

Jennifer Kazzie and Melissa Sullivent appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
C=Complainant/Claimant
Lic=Licensing Application
A=Applicant
RF=Recovery Fund Claim
R=Respondent/Regulant
Trades=Tradesmen Application
W=Witness
Atty = Attorney

Participants

1. Stuart Components Inc.
T. Neville Ingram – R
File Number 2002-02408 (Disc)
Jeff Stefanski - RW
No decision was made.
John Trexler – R Atty

James & Hazel Keene
James Kane – C Atty
2. Mid Atlantic Building Corp
t/a Forest Hill Associates
Archie Cannon – C
File Number 2003-00057 (Disc)
3. Mid Atlantic Building Corp
Lennie Gamage - C
t/a Forest Hill Associates

Eija Gamage – C
File Number 2002-03650 (Disc)

4. Russell Adkins Jr.
None
t/a Russell Adkins Plumbing
File Number 2003-01418 (Disc)
5. David Garcia
None
t/a David G Carpentry
File Number 2003-00797 (Disc)
6. A-1 Irrigation Inc.
Joyce DeBerry - C
File Number 2002-01557 (Disc)
7. Timothy J. Sturgill & Bill Sturgill
Sheryl Tyner - C
t/a Sturgill & Son
File Number 2002-02640 (Disc)
No decision was made.
8. Timothy Allen Jr.
None
t/a Golden Touch Painting
File Number 2002-03662 (Disc)
9. Beco Construction Inc.
Larry Bazemore – R
File Number 2002-03062 (Disc)
Mickey Martin – R

Robert Sandlin – C

Margaret Sandlin - C
10. George L. Perkins
Jeff Perkins – R
t/a Perkins Electric Co.
Diane Jamerson – C
File Number 2002-02611 (Disc)
11. Howard Garnett Jr.
Garnett – R

t/a American Builders Co.
File Number 2003-00084 (Disc)

12. Peter J. Daley
None
t/a Pete Daley
File Number 2002-02110 (Disc)

13. Shenandoah Home Improvements Inc.
Glenn Lilly – A
File Number 2003-03213 (Lic)

14. Brad Lee Hodges
Hodges – A
File Number 2003-03216 (Lic)
Michelle Hodges - W
No decision was made.

conference: Archie and Pamela Cannon, Claimants; Jennifer Kazzie, Staff Member; and James Hollar, Presiding Board Member.

Jeffrey Winkler, President of Mid Atlantic Building Corp., t/a Forest Hill Associates, did not appear in person or by any other representative.

Summation of Facts

1. On or about November 23, 2001, Archie and Pamela Cannon (the Cannons) entered into a contract with Mid Atlantic Building Corp., t/a Forest Hill Associates (Forest Hill Associates), in the amount of \$60,870.02, to perform renovation/repairs at 14669 Woodslane Road, Woodford, Virginia. The Cannons paid Forest Hill Associates a total of \$44,913.24 for the job.
2. In May 2002, Forest Hill Associates ceased work on the job and failed to return the funds received from the Cannons for work not performed. According to George Grampp, Building Official for Caroline County, Forest Hill Associates performed approximately \$25,000.00 to \$30,000.00 worth of work.
3. On July 30, 2002, Investigator Janet P. Creamer, the Board's Agent, requested Forest Hill Associates provide copies of receipts for the materials and services purchased toward the Cannons job. As of September 19, 2002, Forest Hill Associates failed to produce such documents.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Failure by Forest Hill Associates to refund funds paid for which work is either not performed or performed only in part, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Forest Hill's license.

Count 2: 18 VAC 50-22-260(B)(12) (Effective September 1, 2001)

Failure by Forest Hill Associates to produce documents requested by the Board is in violation of the Board's 2001 Regulation 18 VAC 50-22-260-(B)(12). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Forest Hill's license.

By:

James Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-020197 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: MID ATLANTIC BUILDING CORP., T/A FOREST HILL
ASSOCIATES
LICENSE NUMBER 2705-020197**

FILE NUMBER: 2002-03650

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Jeffrey Winkler, President, Mid Atlantic Building Corp., t/a Forest Hill Associates on June 5, 2003. The following individuals participated at the conference: Lennie and Eija Gamage, Complainants; Jennifer Kazzie, Staff Member; and James Hollar, Presiding Board Member.

Jeffrey Winkler, President of Mid Atlantic Building Corp., t/a Forest Hill Associates, did not appear in person or by any other representative.

Summation of Facts

1. On or about June 25, 2001, Lennie and Eija-Sisko Gamage (the Gamage) entered into a contract with Mid Atlantic Building Corp., t/a Forest Hill Associates (Forest Hill Associates), in the amount of \$100,691.63, for the construction of an addition to the residence in Spotsylvania County, Virginia.
2. On or about June 25, 2001, the Gamage paid Forest Hill Associates \$10,069.16, by personal check #104, as a deposit for plans, permits, advance order items and initial site work.
3. On or about July 31, 2001, the Gamage and Forest Hill Associates signed a written change order which increased the value of the contract to \$119,794.48.
4. On or about July 31, 2001, the Gamage paid Forest Hill Associates \$3,710.29, by personal check #105, to accompany the written change order.
5. The contract used by Forest Hill Associates failed to contain all the minimum provisions as required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8) subsection (h)

contractor's license number, expiration date, class of license/certificate, and classification or specialty services.

6. On or about September 2001, the Gamages contacted Forest Hill Associates to request the start of construction be delayed until April 1, 2002 and that Forest Hill Associates return the deposit until that time. David Stevens (Stevens), Qualified Individual, Secretary and Designated Employee for Forest Hill Associates, told the Gamages that the money was used to pay for health and building permits and to order and pay for the roof trusses.

7. On or about March 1, 2002, the Gamages informed Forest Hill Associates that they were ready to start construction. Forest Hill Associates contacted the Gamages and told them that the company was out of business. When asked what happened to the deposit money received from the Gamages, Stevens replied "It's gone," because his partner, Jeff Winkler, had cancer and needed a paycheck. The Gamages also asked Stevens about the trusses that were ordered and Stevens told the Gamages that "they did not exist."

8. On July 10, 2002, Stevens told Investigator Janet P. Creamer, the Board's Agent, that he spent approximately \$4,000.00 of the funds paid by the Gamages to cover costs associated with permits, soil testing, designing, and excavation. Stevens also told the Board's Agent that he could not explain what happened to the balance of the funds provided to the company by the Gamages.

9. Forest Hill Associates failed to obtain permits from the County of Spotsylvania, did not provide any plans for construction, never performed any construction at the site, and never returned any portion of the funds paid by the Gamages for work not performed.

10. The Board's Agent requested copies of receipts for the items and services purchased toward the Gamages' job. Stevens agreed to provide the requested receipts. As of September 19, 2002, Stevens failed to produce the documents.

11. The licensing records for the Board for Contractors revealed the address of record for Forest Hill Associates as 4980 Quality Drive, Fredericksburg, Virginia.

12. On July 10, 2002, David Stevens, Qualified Individual, Secretary and Designated Employee for Forest Hill Associates, told Investigator Janet P. Creamer, the Board's Agent, that he and Jeff Winkler sold the building located at 4980 Quality Drive in Fredericksburg, Virginia approximately 2 ½ months ago.

13. On August 22, 2002, the Board's Agent went to 4980 Quality Drive in Fredericksburg, Virginia. The building was locked. There appeared to be no business activity. The Board's Agent left a business card at the door for either Stevens or Winkler. As of September 19, 2002, no further response was received from Forest Hill Associates.

14. On or about September 19, 2002, the licensing records for the Board for Contractors revealed the address of record for Forest Hill Associates was still 4980 Quality Drive in Fredericksburg, Virginia. The records further revealed there were no changes of address.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Failure by Forest Hill Associates to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Forest Hill's license.

Count 2: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Failure by Forest Hill Associates to complete work contracted for, or the retention or misapplication of funds paid, for which work was not performed or performed only in part, is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Forest Hill's license.

Count 3: 18 VAC 50-22-260(B)(11) (Effective May 1, 1999)

Failure by Forest Hill Associates to provide documents requested by the Board's Agent is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(11). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Forest Hill's license.

Count 4: 18 VAC 50-22-230(B) (Effective May 1, 1999)

Failure by Forest Hill Associates to advise the Board of a change of address within 30 days of the change is in violation of the Board's 1999 Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Forest Hill's license.

By:

James Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-20197 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: RUSSELL ADKINS, JR., T/A RUSSELL ADKINS
PLUMBING
LICENSE NUMBER 2705-041840**

FILE NUMBER: 2003-01418

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Russell Adkins, Jr., t/a Russell Adkins Plumbing on June 5, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and James Hollar, Presiding Board Member.

Russell Adkins, Jr., t/a Russell Adkins Plumbing, did not appear in person or by any other qualified representative.

Summation of Facts

1. On or about May 9, 2002, Joseph Draego (Draego), t/a Handbilt Homes, Inc., as a general contractor, entered into a verbal subcontract with Russell Adkins, Jr. (Adkins), t/a Russell Adkins Plumbing, for the installation of the plumbing in a new house on Lot 11, Preddy Creek Road, Ruckersville, Virginia.
2. Adkins completed the plumbing work and received some payment from Draego.
3. Sometime after the homeowners took possession of the house, the homeowners found a leak in the second floor shower drain. Draego contacted Adkins about the leak, but Adkins

refused to respond and correct the problem. Draego subsequently paid another plumber to repair the leak.

4. On or about October 16, 2002, in the General District Court, for the County of Greene, Virginia, Draego was awarded a \$450 judgment against Adkins for damages caused by the plumbing leak, which Adkins would not repair. There is no appeal pending and the time for appeal has expired. As of January 21, 2003, Adkins failed to satisfy the civil judgment.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Failure by Adkins to satisfy a judgment issued in the General District Court for the County of Greene, Virginia, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed. In addition, I recommend Adkins successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

By:

James Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN
SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF*

ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-041840 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: DAVID GARCIA, T/A DAVID G. CARPENTRY
LICENSE NUMBER 2705-035375**

FILE NUMBER: 2003-00797

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to David Garcia, t/a David G. Carpentry on June 5, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and James Hollar, Presiding Board Member.

David Garcia, t/a David G. Carpentry, did not appear in person or by any other qualified representative.

Summation of Facts

1. On or about September 5, 2002, Kiran Bashir (Bashir) entered into a contract with David Garcia (Garcia), t/a David G. Carpentry, in the amount of \$9,650.00, to replace rotten wood, brick mold, window, flashing, clean and replace gutters, install siding, paint, and refinish front door at 12417 Amershire Place, Glen Allen, Virginia.
2. The contract used by Garcia failed to contain all the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22.260(B)(9), subsections (a) when work is to begin and estimated completion date, (d) a "plain-language" exculpatory clause concerning

events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, and (h) contractor's license expiration date, class of license/certificate, and classification or specialty services.

3. On or about September 16, 2002, the licensing records of the Board for Contractors revealed David Garcia, t/a David G. Carpentry, was issued Class C Contractor's license number 2705035375 on or about August 14, 1996.
4. Garcia failed to obtain a Class B license in order to engage in a contract to perform work in excess of the \$7,500.00 limit of a Class C license.
5. On or about December 9, 2002, in the General District Court, Civil Division, County of Henrico, Virginia, Bashir was awarded a \$4,085.00 judgment against David Garcia DBA David G. Carpentry of 2512 Arrington Road in Richmond, Virginia. As of January 1, 2003, Garcia failed to satisfy the judgment.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Failure by Garcia to use a contract containing the minimum provisions required is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$200.00 be imposed. In addition, I recommend Garcia successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Failure by Garcia to satisfy a judgment issued in the General District Court, Civil Division, for the County of Henrico, Virginia, is a violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed. In addition, I recommend Garcia successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(1) (Effective September 1, 2001),

to wit: §54.1-1103 of the Code of Virginia

Failure by Garcia to obtain a Class B license in order to engage in a contract to perform work in excess of the \$7,500.00 limit of a Class C license is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(1), to wit: §54.1-1103 of the Code of Virginia. Therefore, I recommend a monetary penalty of \$2,500.00 be imposed. In addition, I recommend Garcia successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

By:

James Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-035375 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

**RE: A-1 IRRIGATION, INC.
LICENSE NUMBER 2705-042461**

FILE NUMBER: 2002-01557

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Anson Bell, President, t/a A-1 Irrigation, Inc. on June 5, 2003. The following individuals participated at the conference: Joyce DeBerry, Complainant; Jennifer Kazzie, Staff Member; and James Hollar, Presiding Board Member.

Anson Bell, President, t/a A-1 Irrigation, Inc., did not appear in person or by any other qualified representative.

Summation of Facts

1. On or about August 2, 2001, Joyce DeBerry (DeBerry) entered into a contract with A-1 Irrigation, Inc. (A-1) to redo the irrigation system. The irrigation system was never completed due to problems with the unfinished sewer discovered during testing of the irrigation system.
2. On or about August 7, 2001, Deberry gave A-1 a deposit of \$5,500.00.
3. On or about August 25, 2001 Deberry was given a new contract, and a request for an additional \$3,463.00 by A-1.
4. On or about September 20, 2001, Deberry received an itemized contract.
5. The contracts, dated August, 1999, used by A-1 Irrigation Inc. in the transactions failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date, (d) a plain language exculpatory clause

concerning events beyond the control of the contractor and a statement that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's license number, expiration date and class of license, and (i) statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties (statement in contract speaks of extra costs only).

6. The contract, dated September, 2001, used by A-1 Irrigation Inc. in the transactions failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date, (d) a plain language exculpatory clause concerning events beyond the control of the contractor and a statement that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building

permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's license number, expiration date and class of license, and (i) statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties (statement in contract speaks of extra costs only).

7. On April 25, 2002, the licensing records of the Board for Contractors revealed A-1 Irrigation Inc. was issued Class A Contractor's license number 2705042461, as a corporation, on December 15, 1997.

8. On or about April 25, 2002, the Commonwealth of Virginia State Corporation Commission records indicated A-1 Irrigation Inc.'s corporate registration was automatically terminated on February 28, 2002, for failure to pay annual registration fees as required by law.

9. The last work done was on or about November 29, 2001. A-1 Irrigation Inc. failed to return to the jobsite. A-1 Irrigation Inc. failed to complete the grade, seed, top soil, and mulching of the back yard. As of March 22, 2002, A-1 Irrigation Inc. failed to return to complete this work. DeBerry paid A-1 a total of \$12,463.00

10. At the IFF, DeBerry provided a copy of a Promissory Note signed by Gary Martin (Martin), A-1 Irrigation, on May 28, 2002, to repay to Joyce DeBerry the principal sum of \$5,500.00. To date, Martin has failed to make payments.

11. At the IFF, DeBerry provided a copy of a Promissory Note signed by Ansel Bell (Bell), A-1 Irrigation, on May 28, 2002, to repay to Joyce DeBerry the principal sum of \$2,500.00. To date, Bell has failed to make payments.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Failure by A-1 to make use of legible written contracts, dated August 1, 2001 and August 25, 2001, that contain all provisions specified in the regulation is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), (TWO VIOLATIONS). Therefore, I recommend a monetary penalty of \$300.00 be imposed for the first violation and monetary penalty of \$300.00 be imposed for the second violation, for a total of \$600.00.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Failure by A-1 to make use of a legible written contract, dated September 20, 2001, that contains all provisions specified in the regulation is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$300.00 be imposed.

Count 3: 18 VAC 50-22-210(3) (Effective September 1, 2001)

Failure by A-1 to obtain a new license within thirty days of a change of business entity is in violation of the Board's 2001 Regulation 18 VAC 50-22-210(3). Therefore, I recommend a monetary penalty of \$350.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Failure by A-1 to complete work contracted for, or the retention of funds paid, for which work is either not performed or performed only in part, is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of A-1's license.

By:

James Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-042461 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: TIMOTHY R. ALLEN, JR.
T/A GOLDEN TOUCH PAINTING
LICENSE NUMBER 2705 064871**

FILE NUMBER: 2002-03662

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Timothy R. Allen, Jr., t/a Golden Touch Painting (Allen) on June 6, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and James A. Hollar, presiding Board Member. Neither Allen, nor anyone on his behalf, appeared at the IFF.

Background

On or about May 11, 2002, Theresa Sprouse (Sprouse) entered into a written contract with Timothy R. Allen Jr. (Allen), t/a Golden Touch Painting, in the amount of \$1,500.00, to replace the front porch rails, posts and pickets at her residence at 13017 Carriage Pond Drive, Richmond, Virginia.

Summation of Facts

1. The contract used by Allen in the transaction reflected an address of 211 North Kalmia Street, Highland Springs, Virginia 23075.
2. The licensing records for the Board for Contractors were reviewed on October 16, 2002 and revealed Allen's address of record as 213 E. Jerald Street, Highland Springs, Virginia 23075. On or about September 20, 2002, Investigator Becky C. Angelilli, the Board's Agent, received information from the United States Postmaster that Allen is not known at the address of record. The licensing records further revealed there were no changes of address.
3. The contract used by Allen in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) the contractor's expiration date, class of license/certificate and classification or specialty services.
4. On or about July 19, 2002, Investigator Becky C. Angelilli, the Board's Agent, made a written request to Allen at the address of record of 213 E. Jerald Street, Highland Springs, Virginia 23075, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's Agent requested the documentation be received by August 5, 2002.

5. On or about August 20, 2002, the Board's Agent made a second written request to Allen at his address of record and requested the documentation be received by August 29, 2002.

6. On or about October 10, 2002, the Board's Agent made another written request to Allen at the address listed on the contract of 211 North Kalmia Street, Highland Springs, Virginia 23075, requesting the documentation be received by October 16, 2002. None of the letters were returned by the Post Office. Allen failed to respond to the Board's Agent's request.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(B) (Effective September 1, 2001)

Allen's failure to notify the Board, in writing, within thirty (30) days of a change of address is a violation of Board Regulation 18 VAC 50-22-230(B). I recommend a monetary penalty of \$400.00 be imposed for the violation of the regulation. In addition, I recommend Allen successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Allen's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend Allen successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Allen's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). I recommend a monetary penalty of \$1,000.00 be imposed for the violation of the regulation. In addition, I recommend Allen successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

James A. Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 064871 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: BECO CONSTRUCTION, INC.
LICENSE NUMBER 2701 037747**

FILE NUMBER: 2002-03062

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Beco Construction, Inc. (BECO) on June 6, 2003. On July 10, 2003, the Informal Fact-Finding Conference Memorandum was amended. The following individuals participated at the conference: Larry Bazemore and Mickey Martin, on behalf of BECO; Robert and Margaret Sandlin, Complainants; Jennifer Kazzie, Staff Member; and James A. Hollar, presiding Board Member.

Background

On March 15, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Robert O. Sandlin Jr. (Sandlin) regarding a contract entered into with BECO Construction Inc. (BECO). On or about April 7, 2000, Sandlin entered into a contract with BECO, in the amount of \$247,500.00, to build a new home at Lot 718, Section 7, Plat Malibu in Virginia Beach, Virginia.

On or about October 16, 2000, Sandlin and BECO entered into a change order, in the amount of \$2,300.00 (\$2,450.00 minus \$150.00 allowance), to install a concrete driveway at Lot 718 at King's Forest subdivision. On December 19, 2000, closing occurred.

Summation of Facts

1. The driveway was completed by BECO between October 16, 2000 and December 19, 2000.

2. In June 2001, Sandlin verbally notified Larry Bazemore (Bazemore), customer service representative for BECO, of cracks in the driveway. By letter dated November 16, 2001, Sandlin notified BECO again that the concrete driveway developed numerous cracks and was beginning to chip.

3. In a letter dated December 24, 2001, BECO advised Sandlin that the one-year warranty expired on December 19, 2001.

4. On January 2, 2002, Sandlin called Bazemore to determine if BECO would repair the driveway. Bazemore told Sandlin the driveway was not covered under the 2-10 warranty, but BECO would send out an independent expert.

5. In a response letter dated April 26, 2002, BECO stated that BECO repaired all discrepancies at Sandlin's home covered by the Home Buyers Warranty 2-10 and that the cracked driveway was not covered by the warranty.

6. In a letter dated September 30, 2002, John Coro (Coro), Chief Building Official, Plans Examiner, Virginia Beach Permits and Inspections Department, advised Investigator David Dorner, the Board's agent, that Section 121.2.2 of the Uniform Statewide Building Code required the builder to repair any discrepancies discovered during the two year period.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

BECO's failure to repair the cracks and chips in the concrete driveway during the two year period as required by Section 121.2.2 of the Uniform Statewide Building Code is a violation of Board Regulation 18 VAC 50-22-260(B)(6). I recommend a monetary penalty of \$750.00 be imposed for the violation of the regulation.

By:

James A. Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2701 037747 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: GEORGE L. PERKINS
T/A PERKINS ELECTRIC CO.
LICENSE NUMBER 2705 003750**

FILE NUMBER: 2002-02611

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to an Amended Notice of Informal Fact-Finding Conference sent by certified mail to George L. Perkins, t/a Perkins Electric Co. (Perkins) on June 23, 2003. The following individuals participated at the conference: Jeff L. Perkins, on behalf of George L. Perkins, Respondent; Diane Jamerson, Complainant; Jennifer Kazzie, Staff Member; and James A. Hollar, presiding Board Member.

Summation of Facts

1. Perkins submitted proposals, dated September 17, 2001, to the Jamersons, one for electrical work, in the amount of \$3,080.00, one for plumbing work, in the amount of \$4,725.00, and one for heat pump systems installation, in the amount of \$3,600.00. Perkins only performed work on the electrical proposal and the plumbing proposal.

2. Perkins failed to obtain signed contracts prior to commencement of work or acceptance of payments.

3. The contracts "proposals" used by Perkins in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (h) contractor's name, address, license number, expiration date, class of license, and classification or specialty services, and (i) statement providing that any modifications to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

4. In addition to the contracted electrical and plumbing work, Perkins installed 32 extra outlets, 5 telephone jacks, 4 television jacks, 4 ceiling fans, 4 keyless light fixtures, 4 pull chain fixtures, recessed light fixtures and bath fans, a water filter, a 4' special order shower door, and a Roman spout without written change orders. Perkins also upgraded a garden tub to a whirlpool tub without a written change order.

5. Perkins verbally provided a 1 year warranty on all work completed by Perkins Electric Co.

6. On January 9, 2002, the Jamersons called Perkins at home and left a message that the shower door leaked. The Jamersons requested Perkins check the shower door.

7. In a letter dated January 25, 2002, the Jamersons notified Perkins that the shower door was still leaking. In a letter dated February 18, 2002, the Jamersons notified Perkins that the shower door was still leaking and that the drainage pipe underneath the kitchen sink came loose, which resulted in the cabinet floor being soaked.

8. As of April 10, 2002, Perkins failed to repair these items, despite efforts made by the Jamersons between January 9, 2002 and April 2002, via several telephone calls and two letters.

9. On or about April 11, 2002, Perkins told Investigator Shelby Smith-Hill, the Board's agent, "I will not honor the warranty until I get paid for the final bill amount. Any other questions you may have, you can direct them to my attorney Penny Baber."

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective September 1, 2001)
(Two Violations)

Perkins' actions of failing to obtain signed contracts on the electrical and plumbing "proposals" prior to commencement of work or acceptance of payments is in violation of Board Regulation 18 VAC 50-22-260(B)(8) (Two Violations). I recommend a monetary penalty of \$500.00 be imposed for the First Violation and \$500.00 be imposed for the Second Violation, for a total of \$1,000.00. In addition, I recommend Perkins successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)
(Two Violations)

Perkins' failure to make use of a legible written contract that contains all the provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9) (Two Violations). I recommend a monetary penalty of \$120.00 be imposed for the First Violation and \$120.00 be imposed for the Second Violation, for a total of \$240.00. In addition, I recommend Perkins successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

Perkins' failure to use written change orders for the changes in the scope of the work to be performed is a violation of Board Regulation 18 VAC 50-22-260(B)(31). I recommend a monetary penalty of \$800.00 be imposed for the violation of the regulation. In addition, I recommend Perkins successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 4: 18 VAC 50-22-260(B)(30) (Effective September 1, 2001)

Perkins' failure to honor the one-year warranty for work performed is a violation of Board Regulation 18 VAC 50-22-260(B)(30). I recommend a monetary penalty of \$800.00 be imposed for the violation of the regulation. In addition, I recommend Perkins successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

James A. Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 003750 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: HOWARD GARNETT, JR.
T/A AMERICAN BUILDERS CO.**

LICENSE NUMBER 2705 008928

FILE NUMBER: 2003-00084

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Howard Garnett, Jr., t/a American Builders Co. (Garnett) on June 9, 2003. On July 11, 2003, the Informal Fact-Finding Conference Memorandum was amended. The following individuals participated at the conference: Howard Garnett, Jr., Respondent; Jennifer Kazzie, Staff Member; and James A. Hollar, presiding Board Member.

Background

On or about July 15, 2002, the Department of Professional and Occupational Regulation received information that Howard Garnett, Jr. (Garnett) was convicted of Class 1 misdemeanors in Madison County, Virginia, on October 20, 1997, November 10, 1997, November 9, 1998, and September 10, 2001, along with a conviction for Failing to Appear on May 13, 2002.

On or about May 3, 1994, Howard Garnett Jr., t/a Garnett Cont, was issued Class B Contractor's license number 2705008928, as a sole proprietorship. The licensing records revealed the following name changes: on June 7, 1998, to Howard Garnett Jr, t/a J.R.'s Contracting Co.; and on June 9, 2000, to Howard Garnett Jr., t/a American Builders Co. Garnett was at all times the owner and operator of this license.

Summation of Facts

1. On October 15, 1997, in the Circuit Court of Madison County, Garnett was found guilty of assault and battery, a Class 1 misdemeanor. On or about October 20, 1997, the Sentencing Order was entered. Garnett appealed the conviction to the Court of Appeals of Virginia. On March 4, 1998, the appeal was denied.
2. On November 10, 1997, in Juvenile and Domestic Relations District Court of Madison County, Garnett was found guilty of assault and battery, a Class 1 Misdemeanor. Garnett received 12 months incarceration with 11 months suspended for the conviction.
3. On November 9, 1998, in the Juvenile and Domestic Relations District Court of Madison County, Garnett was found guilty of assault and battery, a Class 1 Misdemeanor. Garnett received a suspended jail sentence for the conviction.
4. On September 10, 2001, in the Juvenile and Domestic Relations District Court of Madison County, Garnett was found guilty of intentionally destroying, defacing, or damaging property belonging to others, in violation of Section 18.2-137 of the Code of Virginia. Garnett received a sentence of 90 days all suspended for the conviction.
5. On May 13, 2002, in the Juvenile and Domestic Relations District Court of Madison County, Garnett was found guilty of failure to appear, in violation of § 18.2-456 of the Code of Virginia. Garnett was ordered to pay a \$50.00 fine for the conviction.
6. During the IFF, Garnett stated that during the time of these offenses, he was dealing with the death of his father, the inheritance of a farm with delinquent real estate taxes, hospital bills, and other heirs providing no financial assistance. In addition, he was involved in a relationship with a woman that he now has two kids and is current on his child support.

Conclusion and Recommendation

Based on the documentation and testimony received at the IFF, I feel that Garnett is sincere in his efforts to straighten his life out and be a productive member of society. It does appear that he was trying very hard to do the right thing during a time when he was under a lot of pressure. With his contractor's license, he has plans for possible spec house building on his ninety (90) remaining acres of the farm. I feel that remedial education is an appropriate sanction in this case.

Count 1: 18 VAC 50-22-260(B)(18) (Effective March 31, 1995)
(Two Violations)

Garnett's actions of having been convicted or found guilty, after initial licensure/certification, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed is a violation of Board Regulation 18 VAC 50-22-260(B)(18) (Two Violations). I recommend Garnett successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(18) (Effective March 31, 1995,
amended July 15, 1998)

Garnett's actions of having been convicted or found guilty, after initial licensure/certification, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed is a violation of Board Regulation 18 VAC 50-22-260(B)(18). I recommend Garnett successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(22) (Effective September 1, 2001)
(Two Violations)

Garnett's actions of having been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed is a violation of Board Regulation 18 VAC 50-22-260(B)(22) (Two Violations). I recommend Garnett successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

James A. Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: PETER J. DALEY
T/A PETE DALEY
LICENSE NUMBER 2705 055688**

FILE NUMBER: 2002-02110

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Peter J. Daley, t/a Pete Daley (Daley) on June 9, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and James A. Hollar, presiding Board Member. Neither Daley, nor anyone on his behalf, appeared at the IFF.

Summation of Facts

1. On or about September 8, 2001, Mr. and Mrs. Widder (Widder) entered into a contract "invoice" with Pete Daley (Daley) to replace all missing and broken cedar shakes, tint all new repairs to blend, and coat entire roof with "chevron single oil" wood preservative and fungicide in the amount of \$1,200.00. Widder paid Daley by check for the work on September 9, 2001.

2. The contract specified, "all work warranted for 4 years."

3. On September 9, 2001, Daley began the roof work. Following the work performed by Daley, the roof began to leak in several places where the cedar shakes were disturbed and dislodged. In the fall of 2001, Daley attempted to correct the leak. Daley told the Widders that the plywood rafters were rotted and they needed a new roof, which would cost \$40,000.00. Daley refused to return to make repairs unless the Widders paid the additional money. As of December 15, 2001, Daley failed to repair the leaks.

4. The contract used by Daley in this transaction failed to contain the minimum requirements of the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the approximate completion date, (d) a "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, (g) for contracts resulting from door to door solicitation, a signed acknowledgment by the consumer that he has been provided with and read the Department of Professional and Occupational Regulation statement of protection available to him through the Board for Contractors, (h) contractor's classifications and specialty services, and (i) statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimate completion date, must be in writing and signed by all parties.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(30) (Effective September 1, 2001)

Daley's failure to honor the terms and conditions of a warranty is a violation of Board Regulation 18 VAC 50-22-260(B)(30). I recommend a monetary penalty of \$800.00 be imposed for the violation of the regulation.

In addition, I recommend Daley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Daley's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). I recommend a

monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend Daley successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

James A. Hollar
Presiding IFF Board

Member

Board for Contractors

Date: July 15, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 055688 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION**

BOARD FOR CONTRACTORS

**RE: SHENANDOAH HOME IMPROVEMENTS, INC.
APPLICATION FOR CLASS B CONTRACTOR'S
LICENSE**

FILE NUMBER: 2003-03213

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Shenandoah Home Improvements, Inc. (Shenandoah) on June 9, 2003. The following individuals participated at the conference: Glenn Elton Lilly, Applicant; Jennifer Kazzie, Staff Member; and James A. Hollar, presiding Board Member.

Summation of Facts

1. Lilly applied for a Class B Contractor's license to conduct business as Shenandoah Home Improvements, Inc. on or about March 20, 2003.
2. In the application, Lilly disclosed a criminal conviction.
3. On December 11, 1997, in the Botetourt County Circuit Court, Lilly was convicted of Possess Methamphetamine, in violation of Section 18.2-250, a Felony.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

This was a non-violent crime with the criminal activity confined to one incident in 1997.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. I do not feel that Lilly poses a threat to the health, safety and welfare of the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

I do not believe that Lilly's occupation or profession will lead him to engage in further criminal activity of the same type as he had been involved.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

I do not believe the crime would affect his ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession.

5. The extent and nature of the person's past criminal activity;

Lilly was convicted of Possess Methamphetamine, a Felony.

6. The age of the person at the time of the commission of the crime;

Lilly was approximately forty-two (42) years old at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

It has been approximately six (6) years since the criminal activity concluded.

8. The conduct and work activity of the person prior to and following the criminal activity; and

Based on the record and during testimony received at the IFF, Lilly has been in the contracting business for ten (10) years. The Board for Contractors licensing records were reviewed on July 15, 2003, and revealed that Glenn E. Lilly, t/a Shenandoah Home Improvements was issued a Class B Contractor's license on March 2, 1993, as a sole proprietor. This license application is for a corporation.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

In a letter to the Department, Lilly stated that he attends Narcotics Anonymous (NA) on a regular basis since the conviction occurred (average of three (3) times a week). Lilly has done volunteer work for NA since then also. Lilly facilitated a recovery group at probation and parole that met weekly in Roanoke for four and a half (4 ½) years. Lilly is currently the Group Service Representative for his home group that meets twice a week.

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Lilly's application for a Class B Contractor's license be approved.

By:

James A. Hollar
Presiding IFF Board

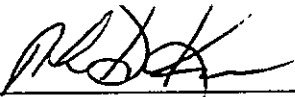
Member

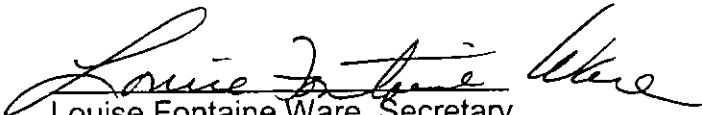
Board for Contractors

Date: July 15, 2003

The meeting adjourned at 5:20 p.m.

BOARD FOR CONTRACTORS


Mark D. Kinser, Chairman


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL
REGULATION

BOARD FOR CONTRACTORS

RE: MID ATLANTIC BUILDING CORP., T/A FOREST HILL
ASSOCIATES
LICENSE NUMBER 2705-020197

FILE NUMBER: 2003-00057

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 15, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Jeffrey Winkler, President, Mid Atlantic Building Corp., t/a Forest Hill Associates on June 5, 2003. The following individuals participated at the

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: James Hollar
2. Title: Member, Board for Contractors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Informal Fact-Finding Conference on July 15, 2003
5. Nature of Personal Interest Affected by Transaction: NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

CMH INC. ACCA, PHCC

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

James G. Hollar
Signature

7-15-03
Date